

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
Petition of Nebraska Public Service)	
Commission for Additional Delegated)	
Authority to Implement Numbering)	
Resource Optimization Measures)	

REPLY COMMENTS OF VERIZON WIRELESS

Verizon Wireless hereby responds to the Commission’s Public Notice¹ and initial comments filed regarding a request by the Nebraska Public Service Commission (“NPSC”) to expand the scope of mandatory thousands-block number pooling (“pooling”) in the 402 NPA. Verizon Wireless agrees with the three comments² filed in support of the NPSC’s effort to prevent premature exhaust and forestall the need for area code relief by requiring pooling outside the top 100 MSAs. Specifically, the NPSC’s petition stated, “The NPSC requests delegated authority to require mandatory implementation of number pooling for rate centers in which such action will extend the life of the area code by utilizing existing resources that would otherwise remain stranded.”³

¹ Wireline Competition Bureau Seeks Comment on Petitions of West Virginia Public Service Commission and Nebraska Public Service Commission for Additional Delegated Authority to Implement Numbering Resource Optimization Measures, *Public Notice*, CC Docket No. 99-200, DA 04-3796 (rel. Nov. 30, 2004).

² Comments of Cingular Wireless LLC, Cox Communications, Inc., and the Michigan Public Service Commission, filed December 30, 2004, CC Docket No. 99-200.

³ See Nebraska Public Service Commission’s Petition for Additional Delegated Authority to Implement Number Conservation Measures, CC Docket Nos. 99-200, 96-98 (November 23, 2004), at 2 (“NPSC Petition”).

However, Cingular raised a narrow but important objection to the NPSC's request insofar as the NPSC may intend to implement an alternative to pooling that is at odds with FCC orders, the pooling rule, and industry guidelines for pooling. The NPSC's petition briefly discusses its effort to find an alternative to location routing number ("LRN") based pooling, as suggested by the Nebraska Rural ILECs; however, its request does not seek a waiver from number pooling as currently deployed pursuant to FCC rules, precedent and industry guidelines.⁴ The NPSC's petition does not describe the alternative to LRN-based pooling to any degree of specificity⁵ or otherwise meet the legal standard required for a waiver from an FCC obligation.⁶ As such, no alternative to LRN based pooling is properly before the FCC for consideration and therefore any grant of delegated authority must be limited to the LRN-based pooling that is the subject of existing FCC rules, orders and industry guidelines.

Furthermore, there are technical issues that underpin LRN-based pooling and which counsel against allowing state commissions to implement alternatives to LRN-based pooling. Verizon Wireless agrees with the comments of Cingular that if the FCC grants additional authority to the NPSC to implement pooling outside the top 100 MSAs, it must be limited to thousands-block number pooling as currently sanctioned.⁷

⁴ A waiver would be necessary to deviate from FCC orders adopting pooling obligations and the FCC's pooling rule which requires that pooling carriers donate thousands blocks with less than ten percent contamination. See 47 C.F.R. §§ 1.3, 52.20; Numbering Resource Optimization, CC Docket No. 99-200, *Report & Order and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 7574, 7661 (2000) ("*NRO First Report and Order*").

⁵ For example, there is no discussion or data provided regarding whether an alternative to LRN-based pooling will be as effective as LRN-based pooling and provide the same relief (in terms of months or years) from premature exhaust. The efficacy of any conservation measure is a key consideration to its use over traditional area code relief.

⁶ See 47 C.F.R. § 1.3.

⁷ Cingular comments at 1, 3-6.

I. THE NPSC PETITION DOES NOT SEEK A WAIVER FROM LRN-BASED POOLING AND THE NPSC LNP SUSPENSION ORDER CANNOT EXEMPT RURAL LECS FROM LRN-BASED POOLING

The NPSC did not expressly seek a waiver from the *Numbering Resource Optimization (“NRO”) First Report and Order*, which establishes the FCC’s national pooling framework, nor from the federal pooling rule.⁸ In the *NRO First Report and Order*, the FCC determined: (1) pooling methodologies would be based on the rate center structure; and (2) pooling can be implemented only where LRN local number portability (“LNP”) has been deployed.⁹ The FCC expressly acknowledged that the LRN architecture underpins pooling.¹⁰

Absent the LRN technology, Nebraska incumbent rural carriers could not participate in pooling consistent with the FCC’s pooling rule. The pooling rule requires that pooling carriers donate blocks that are ten percent or less contaminated, not just pristine blocks. Cingular aptly points out that the Nebraska working group was tasked with investigating a methodology that would enable non-LNP capable local exchange carriers to participate in pooling by donating pristine blocks only.¹¹ The NPSC may not change the pooling requirements for carriers in its state without a waiver of the pooling rule and certain FCC orders adopting the national pooling framework, which the NPSC has not requested in this proceeding.

The NPSC’s petition only addresses its desire to implement pooling outside the top 100 MSAs. The passing mention of the work done by an industry working group on

⁸ *NRO First Report and Order*, ¶126. In that decision, the FCC defended its decision to adopt pooling based on the fact that industry fora had resolved outstanding technical issues and had established technical standards for pooling. *Id.*; *See also* 47 C.F.R. § 52.20.

⁹ *NRO First Report and Order*, ¶117.

¹⁰ *Id.*

¹¹ Cingular comments at 4, citing the Nebraska Report at 5.

an alternative to LRN-based pooling is not a request for a waiver from FCC orders or the pooling rule. As such, the question of allowing non-LNP capable carriers in Nebraska to implement an alternative to LRN-based pooling is not before the FCC. Such a request, were it made, would need to be supported by a demonstration of good cause and that “special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.”¹² No such showing has been made here.

In the *NRO Second Report and Order* the FCC declined to extend pooling to non-LNP capable carriers outside the top 100 MSAs that have not received a request to deploy LNP from a competing carrier.¹³ At least thirty-two rural Nebraska LECs have received requests for LNP, which led to the suspension order by the NPSC.¹⁴ As such, if the NPSC is granted authority to require pooling outside the top 100 MSAs where these carriers operate, they are required to participate in pooling unless exempted by the FCC, even if they are not required to provide LNP.¹⁵ The state suspension under section 251(f)(2) covers LNP, not pooling.¹⁶ Section 251(f) (2) provides for state commission

¹² *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

¹³ Numbering Resource Optimization, *Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200*, 16 FCC Rcd. 306 (2000), ¶ 19. Further exemptions were made in a later order, but in each case the FCC qualified its exemption for rural telephone companies and Tier III CMRS providers to only include those that had not received a request to provide LNP. The FCC clearly states that once an exempted rural carrier or Tier III wireless carriers has received a request to provide LNP, that carrier must participate in pooling. See Numbering Resource Optimization, CC Docket No. 99-200, *Fourth Report & Order and Fourth Further Notice of Proposed Rulemaking*, 18 FCC Rcd 12472, ¶¶ 1, 18 (2003) (“*NRO Fourth Report and Order*”).

¹⁴ See Cingular comments at 3 and fn. 5.

¹⁵ See 47 C.F.R. § 52.20(b) (“all carriers, except those exempted by the Commission, must participate in thousands-block number pooling where it is implemented” (emphasis added)). See also *NRO Fourth Report and Order*, ¶ 14 (“all carriers ... should be required to participate in thousand-block number pooling, regardless of whether they are required to provide number portability”).

¹⁶ Section 251(f) (2) provides for state commission sanctioned suspensions from certain obligations specifically enumerated in sections 251(b) and (c). Section 251(b) covers resale, number portability, dialing parity, access to rights-of-way, and reciprocal compensation. Section 251(c) covers additional duties to those in (b), mostly related to interconnection. Pooling is not the subject of Sections 251(b), (c), or (f)(2).

sanctioned suspensions from certain obligations specifically enumerated in sections 251(b) and (c), which do not include number pooling.¹⁷ Thus, state commission suspension from the federal pooling mandate is not authorized by Section 251(f)(2).

In addition, the FCC has recognized that, as a practical matter, carriers can participate in pooling once they deploy the LRN architecture and therefore pooling need not be linked to a carrier's ability to provide LNP.¹⁸

II. THE FCC SHOULD ONLY PERMIT LRN-BASED THOUSANDS BLOCK NUMBER POOLING IN ANY MSA

A. Alternatives to LRN-based Pooling Present Important Technical Challenges to LNP Capable Carriers

Even if the NPSC had formally requested a waiver from LRN-based pooling, the FCC should not grant such a request. There are several important technical issues associated with alternatives to LRN-based pooling. In response to the NPSC's initiative to explore an alternative to LRN-based thousands block number pooling, an Industry Working Group developed a report entitled "Examination of non-LNP Capable Carriers Donating Thousands Blocks to Pooling Administrator." That report clearly outlines the problems associated with pooling between LNP capable carriers and non-LNP capable carriers. More precisely, it is the LRN capability (which is implemented during the network upgrades for LNP) that enables different carriers to share thousands-blocks from the same NXX code and avoid misrouting of calls to ported numbers and/or pooled

¹⁷ Section 251(b) covers resale, number portability, dialing parity, access to rights-of-way, and reciprocal compensation. Section 251(c) covers additional duties to those in (b), mostly related to interconnection.

¹⁸ *NRO Fourth Report and Order*, ¶ 14.

thousands-blocks. The position of LNP-capable carriers, as documented in Section 9.2 of the report, is as follows:

The LNP Capable Carriers do not support the alternative options considered above to facilitate block donations by non-porting capable LECs. The proposed alternatives would shift significant burdens onto the LNP Capable carriers that have invested in their networks to comply with their pooling and porting obligations.

Specifically, the impact of implementing an alternative to LRN-based pooling on LNP capable wireless carriers would be adverse because:

- The LECs could not route calls to numbers rated in the local rate center when the wireless carrier does not have direct interconnection facilities in that rate center.
- The non-LNP capable LEC cannot fulfill its responsibility as the N-1 carrier to perform a dip on calls to numbers from a ported or pooled block. It would need to reach contractual agreement with an LNP capable carrier to perform the dips. Verizon Wireless is not aware that any wireless carrier has agreed to a contract to perform dips for another carrier.
- Customers will be angered and inconvenienced by attempts to port numbers from a non-LNP capable wireline carrier to an LNP capable wireless carrier. The new wireless service provider will not know (and therefore could not immediately decline the port request at the point of sale) that the number is attached to a non-LNP capable wireline carrier until considerable time may have elapsed.

In addition, the report further details how LNP capable carriers would be burdened by default routing obligations, which the Nebraska LECs only can bear if they upgrade their switches with the LRN capability. Because of these technical issues, the FCC should only grant state commission requests to expand LRN-based pooling to areas outside the top 100 MSAs if such requests are consistent with FCC orders and industry guidelines.

B. State Commissions Should Reconsider LNP Suspensions If They Want To Expand Pooling Into Areas Outside The Top 100 MSAs

The NPSC's decision to exempt thirty-two LECs from the federal LNP obligation¹⁹ is inconsistent with its decision to seek broader pooling in areas outside the top 100 MSAs unless, at a minimum, the NPSC requires exempted LECs to upgrade to LRN routing. State commission decisions to suspend LNP obligations imposed by the FCC for carriers in a given state should have considered, under 251(f)(2), the known impact of those decisions on the viability of pooling as a conservation measure during the suspension period.

Verizon Wireless opposed suspension requests in four states on several grounds, one of which was that the LNP suspensions would hamper efforts to expand the scope of pooling, which was inconsistent with the public interest prong of 251(f)(2)(b). Despite opposition from wireless carriers, many LECs prevailed in state suspension proceedings. The previously granted LNP suspensions cannot now also be used as a justification for excusing compliance with LRN-based pooling -- especially when doing so entails burdening LNP capable carriers. If the need for pooling diminishes the rationale for prior suspension decisions in Nebraska, the NPSC should reconsider those decisions in favor of requiring the LRN technology needed for pooling.

III. CONCLUSION

Verizon Wireless supports the NPSC's request to expand LRN-based pooling to areas outside the top 100 MSAs. No other request is before the FCC. For the reasons

¹⁹ See *infra*. Fn.14. In 2004, thirty-two rural LECs were granted a suspension from LNP until January 20, 2006.

provided above, LRN-based pooling should be consistently required nationwide, even in areas outside the top 100 MSAs.

Respectfully submitted,

VERIZON WIRELESS

By:

A handwritten signature in black ink that reads "John T. Scott, III". The signature is written in a cursive style with a horizontal line underneath the name.

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January 14, 2005